

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company (U 39 M), a California Corporation, and the California Waterfowl Association, A California Public Benefit Corporation, for an Order Market Valuing and Authorizing the Former to Transfer to the Latter Certain Land in Shasta County (MacArthur Swamp) and Related Property Pursuant to Public Utilities Code Sections 367(b) and 851.

Application 00-05-029  
(Filed May 15, 2000)

Application of Pacific Gas and Electric Company (U 39 M), a California corporation, the State of California, acting by and through its Department of Parks and Recreation, with the approval of its Department of General Services (DPR), and the California Waterfowl Association, A California Public Benefit Corporation (CWA), for Orders Pursuant to Public Utilities Code Sections 367(b) and 851 (1) Establishing the Market Value of and Authorizing Pacific Gas and Electric Company to Transfer to DPR Certain Pieces of Land in Shasta County (Burney Falls) in Exchange for Land Currently Owned by DPR (Ahjumawi), and (2) Authorizing Pacific Gas and Electric Company to donate Ahjumawi to CWA.

Application 00-05-030  
(Filed May 15, 2000)

**ADMINISTRATIVE LAW JUDGE’S RULING RE: BRIEFS  
ON APPLICATION OF AB 6X TO THESE PROCEEDINGS**

As amended by Assembly Bill 6 (2001-02 First Extraordinary Session [Dutra and Pescetti]), also known as AB 6X, Pub. Util. Code § 377 provides:

“377. The commission shall continue to regulate the facilities for the generation of electricity owned by any public utility prior to January 1, 1997, that are subject to commission regulation until the owner of those facilities has applied to the commission to dispose of those facilities and has been authorized by the commission under Section 851 to undertake that disposal. Notwithstanding any other provision of law, no *facility for the generation of electricity* owned by a public utility may be disposed of prior to January 1, 2006. The commission shall ensure that *public utility generation assets* remain dedicated to service for the benefit of California ratepayers.”  
(Emphasis added.)

The lands at issue in these consolidated proceedings are parts of watershed tracts Pacific Gas and Electric Company (PG&E) owns in California. While there are no generation facilities located on these particular tracts, per se, the lands form part of the watersheds supplying PG&E hydroelectric facilities. Furthermore, the Federal Energy Regulatory Commission (FERC) license (License No. 2687) to operate Pit 1, one of PG&E’s hydroelectric generation facilities located on the Pit River, includes within its boundaries 2000 of the 7400 acres PG&E proposes to donate as part of the MacArthur Swamp transfer, under Application (A.) 00-05-029. These proceedings are unopposed. Environmental review of the amended application filed in each proceeding, and the corresponding Proponents Environmental Assessment, has resulted in the release of a Final Mitigated Negative Declaration by Commission staff.

The purpose of this ruling is to direct applicants, and invite all other interested parties, to file briefs addressing whether AB 6X bars the proposed land

transfers. Among other things, briefs should address whether the watershed lands, or some specific subset(s) of them, comprise “public utility generation assets” within the meaning of the AB 6X. Legal and policy arguments should be supported by citation to authority, including pertinent legislative history.

In accordance with the electronic service protocols established for these proceedings (attached hereto), initial briefs shall be filed and served on or before June 10, 2002 and reply briefs, on or before June 28, 2002.

**IT IS RULED** that:

1. Applicants shall file, and all other interested parties are invited to file, briefs which address whether AB 6X bars the proposed land transfers at issue in these consolidated proceedings, as further discussed herein.

2. Initial briefs shall be filed and served on or before June 10, 2002 and reply briefs, on or before June 28, 2002.

Dated May 13, 2002, at San Francisco, California.

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/s/ JEAN VIETH  
Jean Vieth  
Administrative Law Judge

## **Attachment**

### **ELECTRONIC SERVICE PROTOCOLS**

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#### **Party Status in Commission Proceedings**

These electronic service protocols are applicable to all “appearances.” In accordance with Commission practice, by entering an appearance at a prehearing conference or by other appropriate means, an interested party or protestant gains “party” status. A party to a Commission proceeding has certain rights that non-parties (those in “state service” and “information only” service categories) do not have. For example, a party has the right to participate in evidentiary hearings, file comments on a proposed decision, and appeal a final decision. A party also has the ability to consent to waive or reduce a comment period, and to challenge the assignment of an Administrative Law Judge (ALJ). Non-parties do not have these rights, even though they are included on the service list for the proceeding and receive copies of some or all documents.

#### **Service of Documents by Electronic Mail**

For the purposes of this proceeding, all appearances shall serve documents by electronic mail, and in turn, shall accept service by electronic mail.

Usual Commission practice requires appearances to serve documents not only on all other appearances but also on all non-parties in the state service category of the service list. For the purposes of this proceeding, appearances shall serve the information only category as well since electronic service minimizes the financial burden that broader service might otherwise entail.

#### **Notice of Availability**

If a document, including attachments, exceeds 75 pages, parties may serve a Notice of Availability in lieu of all or part of the document, in accordance with Rule 2.3I of the Commission’s Rules of Practice and Procedure.

#### **Filing of Documents**

These electronic service protocols govern service of documents only, and do not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rule 2, *et seq.*, of the

## **Attachment**

### **ELECTRONIC SERVICE PROTOCOLS (Page 2)**

Commission's Rules of Practice and Procedure. Moreover, all filings shall be served in hard copy (as well as e-mail) on the assigned ALJ.

#### **Electronic Service Standards**

As an aid to review of documents served electronically, appearances should follow these procedures:

Merge into a single electronic file the entire document to be served (*e.g.* title page, table of contents, text, attachments, service list).

Attach the document file to an electronic note.

In the subject line of the note, identify the proceeding number; the party sending the document; and the abbreviated title of the document.

Within the body of the note, identify the word processing program used to create the document. (Commission experience indicates that most recipients can open readily documents sent in Microsoft Word or PDF formats)

If the electronic mail is returned to the sender, or the recipient informs the sender of an inability to open the document, the sender shall immediately arrange for alternative service (paper mail shall be the default, unless another means is mutually agreed upon).

#### **Obtaining Up-to-Date Electronic Mail Addresses**

The current service lists for active proceedings are available on the Commission's web page, [www.cpuc.ca.gov](http://www.cpuc.ca.gov). To obtain an up-to-date service list of e-mail addresses:

Choose "Proceedings" then "Service Lists."

**Attachment**

**ELECTRONIC SERVICE PROTOCOLS**

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Scroll through the “Index of Service Lists” to the number for this proceeding.

To view and copy the electronic addresses for a service list, download the comma-delimited file, and copy the column containing the electronic addresses.

The Commission’s Process Office periodically updates service lists to correct errors or to make changes at the request of parties and non-parties on the list. Appearances should copy the current service list from the web page (or obtain paper copy from the Process Office) before serving a document.

**Pagination Discrepancies in Documents Served Electronically**  
Differences among word-processing software can cause pagination differences between documents served electronically and print outs of the original. (If documents are served electronically in PDF format, these differences do not occur.) For the purposes of reference and/or citation in cross-examination and briefing, all parties should use the pagination found in the original document.

(END OF ATTACHMENT)

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Re: Briefs on Application of AB 6X to These Proceedings on all parties of record in this proceeding or their attorneys of record.

Dated May 13, 2002, at San Francisco, California.

/s/ KRIS KELLER

Kris Keller

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

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(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at  
least three working days in advance of the event.